

**STATE OF CONNECTICUT**  
**DEPARTMENT OF ENVIRONMENTAL PROTECTION**



April 30, 1999

Michael M. Stahl, Deputy Administrator  
U.S. EPA  
401 M Street, SW  
Washington, DC 20460


Dear Mr. Stahl:

In response to OECA's March 9, 1999 "Notice of Availability. Compliance Measurement Cooperative Agreements for states", the Connecticut Department of Environmental Protection is pleased to submit for your consideration, the enclosed pre-proposal entitled, "Developing a Compliance Management Strategy for Connecticut's General Permit Program". This proposal will address the need to develop measures that accurately reflect the current and ongoing accomplishments of state compliance assurance programs. The proposal would employ a model compliance assurance strategy that could serve as a measurement template for other states and EPA. Through this pilot project, we will develop an environmental measurement system that focuses on environmental results and provides more meaningful data for internal use by managers and staff, as well as external users such as the environmental and regulated communities as well as the public.

The development of an enhanced system of performance measures is challenging, due to the difficulty of defining outcomes, lack of supporting data, and the complexity of developing measures which are valid and representative of populations being measured. However, through this project, the Connecticut Department of Environmental Protection will take a step forward in the development of outcome measures for enforcement and compliance assurance programs. In addition, we will be able to transfer the results of this pilot to other programs within the Department, other states and EPA in furtherance of our mutual efforts to develop enhanced measurement systems that accurately reflect performance.

If you have any questions on the enclosed proposal please contact Tracy Babbidge at 860-424-3382.

Sincerely,

  
Assistant Commissioner Jane Stahl  
Connecticut Department of Environmental Protection

cc.

Amy Porter, OECA  
Ira Leighton, EPA Region I  
Gerry Sotolongo, EPA Region I

# **Developing a Compliance Management Strategy for Connecticut's General Permit Program Pre-Proposal**

**Purpose:** To objectively measure the rate of compliance with select general permits prior to and following application of compliance assurance strategies specifically designed to maximize permit compliance.

*Proposal Summary: The Connecticut Department of Environmental Protection will:*

*\* objectively determine current baseline compliance with several general permits in the Department's Air and Water Bureaus by: (i) randomly selecting a statistically valid portion of the regulated community; (ii) by inspecting the chosen facilities or requiring those selected to submit to the Department for review compliance-related documentation (such as monitoring results) required to be kept at the facility under the general permit; and (iii) selectively reviewing the submitted data for compliance*

*\* develop and employ compliance assistance and outreach strategies directed at raising the baseline compliance rate within the regulated communities covered under the general permits*

*\* reassess compliance rates following compliance assistance and outreach efforts using the same methodology employed to determine baseline compliance prior to assistance and outreach efforts*

*\* develop and employ an enforcement strategy to compel compliance by those known violators within the selected general permit categories*

*\* reassess compliance rates following enforcement using the same methodology employed to determine initial baseline compliance and compliance following assistance and outreach efforts*

## **Background**

The Connecticut Department of Environmental Protection (CTDEP) uses a variety of regulatory devices to assure protection of the environment. In 1998, the Department regulated over 84,000 activities through permits, registrations and other authorizations. These licenses dictate the levels of emissions, set conditions for facility operation, and impose management practices that are designed to prevent pollution of the air, water and other natural resources of Connecticut. One major category included in this total is the number activities authorized under general permits. Since obtaining the statutory authority to issue general permits in 1991, CTDEP has developed 35 general permits and at least 6,272 activities have been authorized to date under those general permits. In 1998, for the first time since the introduction of state authorized general permits, the number of activities regulated pursuant to general permits exceeded the

number of activities regulated pursuant to individual permits.

During the past eight years, CTDEP has focused a great deal of time, energy and effort on issuing general permits and authorizing activities under them. CTDEP has made a much smaller investment, on a piecemeal basis, in assuring compliance with general permits. Furthermore, while targeted compliance reviews of specific registrants has raised concerns over general permit compliance rates, CTDEP has yet to systematically evaluate the rate of compliance with general permits. Given our increased reliance on general permits, it is important that CTDEP objectively evaluate compliance rates for general permits, identify primary causes of general permit non-compliance, and then to formulate and enact a strategy to elevate and maintain the highest rate of general permit compliance possible. General permits are designed to promote voluntary compliance, particularly for smaller facilities. CTDEP continues to implement mechanisms that promote voluntary compliance and encourage self-certifications. As this effort moves forward, the CTDEP must develop statistically valid, facility-based compliance rates for activities covered under general permits. Based upon the level on non-compliance measured, the CTDEP must then pursue, within available resources, the most effective strategies to assure maximum compliance.

### **Project Objective**

CTDEP proposes to develop enhanced measures of general permit program performance through an environmental problem solving approach. CTDEP will analyze compliance with general permits in Connecticut and identify compliance rates within selected general permit programs. Through this pilot project, CTDEP will: (i) develop a method for objectively measuring the extent of general permit non-compliance; (ii) identify resources which can be directed at general permit non-compliance; (iii) define and assistance, self-auditing and enforcement options for significantly raising compliance rates; (iv) employ assistance and enforcement options to maximize general permit compliance, and; (v) develop compliance rates to measure the efficacy of this pilot. As part of the process, CTDEP will develop the capacity to identify patterns of non-compliance, and to design solutions that eliminate or substantially mitigate non-compliance. A "problem-solving" or compliance management strategy, for this project would involve the following elements:

- Systematic identification of important hazards, risks, or patterns of non-compliance
- A project-based approach, offering the opportunity to design and implement creative, tailor-made solutions;
- Utilization of a broad range of tools (including, but not limited to, enforcement) in fashioning tailor-made responses to non-compliance;
- Periodic evaluation of the outcomes or impacts of the designed interventions; and
- Flexible resource allocation, enabling CTDEP to open and close projects in response to changing conditions and priorities.

This pilot project would enable CTDEP to develop the capacity to identify, prioritize, and eliminate significant risks, problems, or patterns of non-compliance. With respect to general permits, a problem solving strategy would enable CTDEP to increase compliance with general permits particularly in areas where there is federal interest such as storm water and Title V.

This pilot project would not replace or displace any other existing program, but would allow CTDEP to focus existing resources more effectively around specific programmatic concerns. The project would involve each of the following elements:

- An attempt through the project to broadly assess and then positively influence general permit compliance rates. By assessing compliance rates before and after employing a compliance enhancement strategy CTDEP will gain the ability to measure the project's benefits without having to rely on specific outputs (such as inspections, notices of violation, consent orders and penalties collected). The results of this pilot would be transferable to other general permit categories as well as to other states utilizing similar mechanisms such as self-certifications to promote voluntary compliance.
- A recognition that the regulated universe has grown exponentially while resources within regulatory agencies have continued to diminish. This dichotomy presents an almost insurmountable resource problem. To be successful, a proactive general permit measures and compliance enhancement strategy will prove more effective than a reactive strategy. Further there is a need to explore alternative strategies, emphasizing voluntary compliance, and using a broader range of tools including education, outreach, and voluntary programs.

### **Project Proposal**

This project will deal with this challenge proactively and work with the Office of Enforcement and Compliance Assurance and Region I to develop a pilot project focused on compliance with general permits as it relates to the National Performance Measures Strategy Set I :**Effects on Behavior of Regulated Populations (OUTCOMES)**. Measures could include: ***Levels of Compliance in Regulated Populations***, Environmental Improvements from Compliance Assistance Tools and Targeted Initiatives, and Environmental Improvements from Integrated Enforcement and Compliance Assurance Initiatives. Specific steps would include:

- *Choose general permits for analysis as part of the project* - CTDEP will evaluate all 35 general permit categories to determine those most suitable for analysis. Areas that will be considered include:
  - Number of violations of a specific regulation within a sector, to the extent known.
  - Large numbers of sources subject to permitting requirements.
  - Potential environmental impact associated with non-compliance.
  - Complaints.
  - Requests for assistance / Complexity of regulation.
  - Grant Commitments/EPA targeted sector.
  - High rate of referrals.
  - Proposed/new regulations.
  - Information on new technology or best management practices.
  - Ecosystem management.
  - Multi-media opportunities.
  - Pollution prevention opportunities.
- *Development of a Project Baseline*- For each general permit category selected for analysis, baseline compliance will be assessed through either an evaluation of reports submitted to CTDEP or by conducting on-site inspections of a representative sample of facilities.
- *Identify Root cause for Non-Compliance*- CTDEP will evaluate results from assessing baseline compliance to identify the root-cause of non-compliance.
- *Development of Compliance Assistance Tools*- Specific compliance assistance tools will be developed and implemented at this stage of the project. Tools may include one or more of the following:
  - Seminars
  - Mass Mailings
  - Guest speakers at conferences/workshops/association meetings
  - On-site assistance
  - Electronic Tools
  - Compliance and Pollution Prevention Manuals
  - Self-auditing policies and tools
  - Financial Assistance
  - Partnerships with associations and other service providers
- *Measurement of Outcomes*- This step will specifically involve the evaluation of the effectiveness of compliance assistance tools developed and implemented and the effect on baseline compliance.

- *Development of an Enforcement Strategy to Address Remaining Non-compliance-* In 1997, after surveying a significant portion of facilities registered under its minor non-contact cooling water general permit, the Department's Water Bureau identified eleven companies in significant non-compliance. Under threat of referral to the Office of the Attorney General, the Department employed non-negotiable administrative consent orders to gain a swift return to compliance and to collect over \$133,500 in penalties. This approach, or one similar to it would be employed to address non-compliance discovered at this stage of the project.
- *Development of Compliance Rates-* Compliance measures could include the following:
  - Levels of compliance in regulated populations, particularly populations targeted for special initiatives and priority industry sectors
  - Environmental improvements realized from compliance assistance tools and targeted initiatives.
  - Levels of compliance from integrated enforcement and compliance assistance initiatives.
- *Project Follow-up*
- *Communicating Results*

## **Project Management**

The Connecticut Department of Environmental Protection, would oversee and manage the project CTDEP would hire a contractor to assist in conducting a baseline assessment, conducting the root-cause analysis, developing the compliance assistance component to the pilot.

## **Estimated Project Time line**

Work on the project would begin subsequent to receiving federal funds and would be completed within 2 years.

## **Proposed Budget**

|  |               |                                    |
|--|---------------|------------------------------------|
| Contractor Expenses                        | Not to Exceed | \$100,000                          |
| CTDEP Contribution                         |               |                                    |
| Program Manager (30%full time for 2 years) |               | \$30,000                           |
| Travel/Printing/Communicating Results      |               | \$5,000                            |
| Total Project Costs                        |               | \$135,000                          |
| Grant Funds Requested                      |               | \$100,000                          |
| State Match                                |               | \$35,000 (26% total project costs) |